IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 12TH NOVEMBER 2007 / 21ST KARTHIKA 1929

Crl.MC.No. 3098 of 2007()

(CRIME NO.661/2007 OF NEDUMANGADU POLICE STATION)

PETITIONER: ACCUSED:

J.ROBINSON, S/O. NESEN,
VAZHAVILA PUTHEN VEEDU, CHULLIMANOOR POST,
ANAD, NEDUMANGADU.

BY ADV. SRI.T.A.UNNIKRISHNAN
SRI.K.SATHEESHKUMAR

RESPONDENT: COMPLAINANT:

STATE OF KERALA, REP. BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

R.BASANT, J

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Crl.M.C.No. 3098 of 2007

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Dated this the 12th day of November, 2007

ORDER

The petitioner has come to this Court aggrieved by the order passed by the learned Magistrate rejecting his application for release of his vehicle under Sec.451 Cr.P.C. The petitioner claims to be the registered owner of the vehicle. The vehicle was allegedly used for commission of the offences kidnapping etc. The petitioner is not arrayed as an accused. One of the accused arrayed is nephew of the petitioner, it is alleged. The petitioner, in these circumstances, prayed that the vehicle may be released to him. Exposure to sun and rain of the vehicle in Police custody, would result in unnecessary damage and deterioration it is pointed out.

2. Before the learned Magistrate an objection was raised that the vehicle had to be examined by an expert. After this Court called for a report, a request was made to forward the vehicle to the expert for examination. The examination of the vehicle is now over and the report has been received. The vehicle is not required now for the purpose of investigation.

3. The learned Public Prosecutor opposes the application for release of the vehicle on the ground that there has been some tampering with the engine number.

4. I have considered all the relevant inputs. The petitioner is the owner of the vehicle. It was seized by the Police. Invoking the dictum in **Sunderbai Ambalal Desai vs. State of Gujarat** (SC 2003(2) KLT 1089, I am satisfied that such arrangements have to be made which shall ensure that the vehicle does not suffer any damage and deterioration in the custody of Court/Police. Appropriate conditions can of course to be imposed. In the result this Crl.M.C is allowed;

5. It is directed that the vehicle in question shall be released to the petitioner on the following terms and conditions.

i) The petitioner shall produce before the learned Magistrate all documents to show that he is the registered owner entitled to the possession of the vehicle.

ii) He shall execute a bond for an amount equal to the value of the vehicle to be fixed by the learned Magistrate, along with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate. The learned Magistrate shall

scrupulously ensure that the sureties offered are sufficient and solvent.

iii) In such bond the petitioner shall specifically undertake not to tamper with the vehicle in any manner and to produce the vehicle before the Court or such authority as may be directed by the Court from time to time.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE